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TO	NAME AND ADDRESS	DATE	INITIALS
1	D/Personnel <i>28 MAY 1979</i>		(3)
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	ACTION	DIRECT REPLY	PREPARE REPLY
	APPROVAL	DISPATCH	RECOMMENDATION
	COMMENT	FILE	RETURN
	CONCURRENCE	INFORMATION	SIGNATURE
<b>Remarks:</b>  <p style="text-align: center;">Please let me have your views on the attached and coordinate same with OGC.</p> <div style="text-align: center; margin-top: 20px;">   <i>Frank C. Carlucci</i> </div> <div style="text-align: left; margin-top: 20px;"> <i>28 MAY 1979</i> </div>			
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FROM: NAME, ADDRESS AND PHONE NO.			DATE
Deputy Director			17 May 79
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FORM NO.  
1-67

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Executive Registry

79-4091

16 May 1979

MEMORANDUM FOR: Director of Central Intelligence

VIA : Deputy Director of Central Intelligence  
DCI MAG Advisor

FROM : DCI Management Advisory Group

SUBJECT : Age As It Relates to Occupational  
Qualification for Employment at CIA

1. Action Requested: That you direct the appropriate component within the Agency to study the issue of whether age is a bona fide occupational qualification reasonably necessary to the normal operation of the Agency.

2. Background: It is the judgment of your Management Advisory Group that certain of the Agency's policies relative to separation and retirement may be seriously challenged in the future. This challenge will be based on the allegation that these policies are age discriminatory.

3. Congressional desire to eliminate age as a factor in employment could result in a legislative attempt to remove the mandatory age provisions from CIARDS. The Agency's basic termination authority may also face both legal and legislative challenges based on an allegation of age discrimination. A legal challenge against your statutory authority to terminate employees is likely to come from those individuals who were the subject of the recent DO reduction. Statements that you have made relative to this exercise including "we also must make provision for the continuing hiring of new and young personnel..." may make the defense against allegations of age discrimination more difficult.

4. Challenges to these allegations can be defended on the basis that differentiation appearing between different age groups is based on reasonable factors other than age. When this defense is not appropriate, in some cases age itself has

been shown to be a bona fide occupational qualification. The Supreme Court has recognized this condition in ruling on mandatory retirements for police officials and also recently ruled that statutory provisions for mandatory retirement from the Foreign Service were not unconstitutional.

5. Although there is reason to believe that the court would rule similarly in a case challenging the mandatory retirement provisions in CIARDS, there is still a necessity to prepare for legislative challenges to CIARDS and both legal and legislative challenges to your statutory authority to terminate employees. We believe that now is an appropriate time for the Agency to attempt to establish whether age -- at least in some categories of Agency employment -- is a bona fide occupational qualification.

6. Recommendation: The DCI MAG recommends that you direct the appropriate component within the Agency to study the issue of whether age is a bona fide occupational qualification reasonably necessary to normal operation of the Agency in order that reasonable defenses could be established against allegations of age discrimination.

FOR THE DCI MANAGEMENT ADVISORY GROUP



Chairman

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